

GOVERNMENT OF ANDHRA PRADESH  
A B S T R A C T

Tribal Welfare – Adilabad District – Revision Petition filed by Sri Sama Ganga Reddy S/o Asha Reddy and 2 others under Sec.6 of A.P.S.A.L.T.R,1959 against the orders of the Addl.Agent to Government, Utnoor, in CMA No.LTR/A4/24/1997,dated 02-12-2006 – Allowed – Orders – Issued.

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SOCIAL WELFARE (LTR - 2) DEPARTMENT

G.O.Ms.No. 58

Dated: 06-06-2009

Read the following:-

- 1.From Sri Sama Ganga Reddy S/o Asha Reddy and two others, Adilabad Dist.,  
Revision Petition Dt: 30-12-2006
- 2.Govt.Memo.No.420/LTR-2/2007-1 & 2, Dt:9-2-2007.
- 3.From the Sol. Dy.Collector, Adilabad , Lr.TWA2/154/2007, Dt:9-4-2007.
- 4.Govt. Lr.No.420/LTR-2/2007-3, Dt:18-3-2008, 17-6-08 and 19-7-08,.

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ORDER:

In the reference first read above, Sri Sama Ganga Reddy S/o Asha Reddy and 2 others R/o Ruyyadi Village, Talamadugu (M) Adilabad District has filed Revision Petition before the Government under Sec.6 of A.P.S.A.L.T.R,1959 against the orders of the Addl. Agent to Government Utnoor in Proceedings No.KTR/A4/24/97, dt.2-12-2006, in respect of lands situated in Sy.Nos.135 and 136 to an extent of Ac.7.25 gts. and 0.20 gts. respectively situated at Ruyyadi village of Talamadugu (M) Adilabad District. The grounds submitted by the Revision Petitioner are under:-

- a) the father of the petitioners was died 25 years back and at that time the petitioners were minors, the pattedar of the above land and grand mother of the petitioners i.e. Ratna Bai gave the said lands on batai basis to the 3<sup>rd</sup> respondent herein i.e. Sunkari Kishtu for cultivation. The grandmother of the petitioners is the pattedar and the appellants themselves have not transferred the above said lands in any manner, therefore the question of attracting the provisions of LTR Act does not arise.
- b) Since the 3<sup>rd</sup> respondent herein was cultivating the lands on batai basis for the grandmother of the petitioners and as the petitioners were minors at that time, the revenue authorities might have made wrong entry of the name of the respondent No.3 herein in the cultivation column of the revenue records.
- c) The petitioners 1 and 2 and respondent No.3 in their statements before the respondent No.2 i.e. Spl. Dy. Collector(TW) clearly stated that no transfer of any manner has taken place between them regarding the above said land. Inspite of that 2<sup>nd</sup> respondent passed ejectment orders and the 1<sup>st</sup> respondent i.e. Project Officer ITDA. Utnoor confirmed the same.
- d) When the evidence shows that there is no transfer took place between the petitioners and the 3<sup>rd</sup> respondent i.e. Sunkari Kishtu regarding the lands in question, the question of violation of the provisions of the amended regulation I of 1970 of LTR Act does not arise and the orders passed basing on that act will not stand legally.
- e) The authorities have not applied correct principles of law and it is only a surmise that is applied in this case.

2. The brief facts of the case are that the Spl.Dy.Tahsildar (TW) Utnoor filed a complaint before the Spl. Dy. Collector(TW) Utnoor believing that transaction of immovable property was made in contravention of APSALTR 1959 in respect of extents measuring acs.7.25 and 0.20 cents in Sy.Nos.135 and 136 respectively at Ruyyadi village of Talamadugu Mandal. Accordingly, the complaint was taken on file and the case was numbered as TWA2/172/97. The Spl. Dy. Collector(TW) Utnoor held enquiries and passed final orders on 5.7.1997 with the following findings:

- i) The legal heirs of the pattedar late Smt.Ratnabai viz., Sama Ganga Reddy and Sama Suresh Reddy attended the court from non-petitioners side and Sunkari Kistu attended as non-respondent. They deposed that the land belonged to their grandmother Smt.Ratnabai i.e. father's mother. She was having only one son i.e. their father Asha Reddy. Their father neither sold nor mortgaged the land to Sri Kishtaiah and that he was cultivating the land only on crop share (1/3 share) from the last 15 years and there was no written lease/agreement.
- ii) Non-respondent Sri Sunkari Kistu S/o Rama Kistu deposed that he was cultivating the land about 8 acres since 15 years on 2/3<sup>rd</sup> share of crop being given to the concerned pattedars/legal heirs. He denied either purchase of the land or mortgage from the pattedar.
- iii) Both the respondent and legal heirs of petitioner had not produced any document in support of their claim. Hence, ordered for ejectment of respondent Sri Sunkari Kistu S/o Rama Kistu and to take into Govt. custody.

3. Aggrieved by the orders of Spl. Dy. Collector(TW) Utnoor Sama Gangareddy, Sama Suresh Reddy and Sama Chinna Ganga Reddy sons of late Sri Asha Reddy and grand sons of pattedar late Smt.Ratnabai filed Appeal before the Agent to Govt. and District Collector, Adilabad on 16.7.1997 to set aside the order of Spl. Dy. Collector (TW ) Subsequently, the case was transferred to Addl. Agent to Govt. & Project Officer ITDA, Utnoor consequent upon delegation of powers, wherein it was enquired in case No.LTR/A4/24/97 and final orders were passed on 2.12.006. The gist of the findings is:

- a) Appellants contended that their father died about 15 years back. As they were minors, grandmother Smt.Ratnabai gave the above land on batai basis to the respondent No.2 Sunkari Kistu for cultivation. Thus, their grandmother used to cultivate the above said lands on batai basis until her death about 4 years back. Since Sunkari Kistu was cultivating the land on batai basis for their grandmother, the revenue authorities might have made wrong entry of his name in the cultivation column of revenue records.
- b) Appellants further contended that the respondent No.1 and they deposed before the Spl. Dy. Collector(TW) that no transfer of any manner had taken place between them and in spite of that the Spl. Dy. Collector(TW) passed ejectment orders.
- c) Respondent No.2 Sunkari Kistu had filed memo of appeal against orders of Spl. Dy. Collector(TW) along with ordinary sale deed written on stamp paper worth Rs.1/- dt. 16.6.1968 stating that he purchased the land from Smt.Ratnabai for a sale consideration of Rs.8,750/- but did not file any documentary evidence like pahani document or payment of land revenue receipts.
- d) In the lower court, appellants and respondent No.2 i.e. Sunkari Krishna deposed that the land was cultivating by Sunkari Krishna on crop share basis and no sale transaction took place. But in the Appeal, respondent No.2 Sunkari Kista was denying with his earlier statement which was given due to misconception felt the threat of being dispossessed from the land and hence wrongly stated before the Spl. Dy. Collector(TW ) only to save his land.
- e) The appellants had not produced any document in support of their claim that the land had been handed over to Sunkari Kistu by them on the basis of an oral agreement ad on crop sharing (BATAI) basis. The date from which the oral agreement had purportedly been done was also not placed on record. The revenue records had clearly shown the name of Appellants as pattedar and Sunkari Kistu as cultivator respectively. Hence, transfer of land from one non-tribal to another was exclusively proved.
- f) Sunkari Kistu had stated that he purchased the land through ordinary sale deed dt. 16.6.1968 i.e. before the inception of the Act. However, it appeared to be an afterthought as he had not produced any such document in the lower court and nor did he mention about it. The appellants had totally denied the validity of the document and deemed to be a fabricated one. Keeping the above discussion in mind, there is a clear case of transfer of property from one non-tribal to another one in contravention of Section 3 (1) of APSALTR 1/59 R/W 1/70.

4. Aggrieved by the above orders of the Addl. Agent to Govt. & Project Officer, ITDA Utnoor, the petitioners viz., Sama Ganga Reddy, Sama Suresh Reddy and Sama

Chinna Ganga Reddy filed Revision Petition before the Government.

5. In the reference 2nd read above the Collector, Adilabad was requested to furnish parawise remarks and case records and the same were received from the Spl. Dy. Collector(TW) Utnoor vide reference 3<sup>rd</sup> read above. After examination of the parawise remarks and case records, notices were sent to the concerned to attend the hearing of the revision petition on 27-3-2008 and 30-6-08 the case was finally came up for hearing on 4-8-2008 vide reference 4<sup>th</sup> read above. Counsel for petitioner present.

6. Government after careful examination of case record of lower and appellate authorities, grounds urged by the petitioners in the RP, and other material available on record with reference to each Survey Number and its extent observed that ---

1. The Appellate Authority found that the Appellants i.e. petitioners herein had not produced any document in support of their claim that the land had been handed over to Sunkari Kishtu on crop sharing (BATAI) basis on oral agreement. Admittedly when it was an oral agreement apparently there will not be any document to produce.
2. The Appellate Authority further held that the ordinary sale deed dt.16.6.1968 is a fabricated one and an afterthought as Sunkari Kishtu failed to produce any such document in the lower court and nor did he mention about it. It clearly speaks of no transaction took place between the non-tribals and hence no case attracts under LTR Act.
3. From the beginning, the Appellants/petitioners herein are stating that they are pattedars and not made any transfer to Sunkari Kishtu and the Appellate Authority also confirmed them as Pattedars but Sunkari Kishtu as cultivator as he was entrusted cultivation on BATAI basis since father of the petitioners was died long back and grandmother of petitioners being only woman and petitioners being minors at that time, which might have led to wrong entry by revenue officials without there being any documentary evidence of transfer as held by Appellate Authority and discussed at point 2 above.
4. Perused the judgement delivered by Hon'ble Justice R.Subhash Reddy in WP No.36742 of 1998 on 22.6.2007. The petitioners 1 to 3 herein are the same petitioners in the WP. R1 is Agent to Govt. and Dist. Collector, Adilabad and R2 is Spl. Dy. Collector(TW) Utnoor. R3 is a non-tribal. Pattedar and possessor of the land in Sy.No.136 measuring Ac.3.20 gts. in the same Ruyyadi village is the same Ratnabai i.e. grandmother of the petitioners. The Hon'ble Single Judge held that "there is no material in support of the allegations made that the land in question has been transferred in contravention of the Regulations, I deem it a fit case to set aside the orders under challenge. Accordingly, the order dated 7-7-1997 passed by the second respondent, Special Deputy Collector (TW) Utnoor and the order dated 02-11-1998 passed by the Agent to Government and District Collector are set aside."

Apparently, in this case also, there is no material in the alleged transfer and merely basing on the BATAI on oral agreement no case exists attracting provisions of LTR Act.

7. Therefore, Government hereby set aside the orders of the Addl. Agent to Govt. & Project Officer, ITDA Utnoor in Appeal No.LTR/A4/24/97, dt.2.12.2006 confirming the orders of Spl. Dy. Collector(TW) Utnoor in case No.TWA2/172/97,dt.5.7.1997 and Revision Petition is allowed accordingly.

8. The counsel for the petitioner is requested to inform his clients accordingly. The Addl. Agent to Government and Project Officer, I.T.D.A., Utnoor is requested to take necessary action in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

A.K.TIGIDI,  
Prl. SECRETARY TO GOVERNMENT

To  
The Addl. Agent to Government & Project Officer, ITDA,  
Utnoor, Adilabad

The Spl.Dy.Collector,(TW) Utnoor, Adilabad District.

(RPAD With the records bearing

i) SDC(TW) file No.TWA2/172/97, containing pages CF(40) and NF 2 pages

ii)PO ITDA, Utnoor No.LTR/A4/24/97,containing Xerox pages 38.

S/Sri Sama Ganga Reddy / Sama Suresh Reddy / Sama Chinna Ganga Reddy

Sons of Asha Reddy R/o Ruyyadi vg. Talamadugu (M) Adilabad Dist.

Sri Sunkari Kishtu S/o Ramakishtu,

R/o Ruyyadi vg. Talamadugu (M) Adilabad Dist.

Sri S.Surender Reddy, Advocate, Flat No.16,

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Copy to the P.S. to M (TW& RIAD)

SF/SCs.

FORWARDED:BY ORDER

SECTION OFFICER